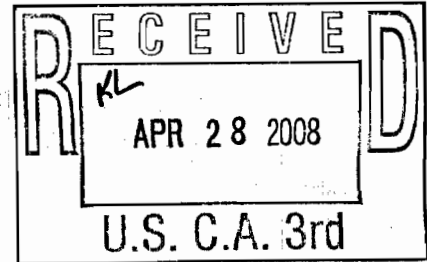


**Affidavit accompanying Motion for
Permission to Appeal In Forma Pauperis**



United States District Court for the District of DELAWARE

James Arthur Biggins
v. Plaintiff,

D.C. Case No. 08-04-GMS

Governor Ruth Ann Minner, et al.
Defendants.

Third Cir. No. _____

Affidavit in Support of Motion

I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury that my answers on this form are true and correct. (28 U.S.C. § 1746, 18 U.S.C. § 1621)

Signed: _____

James Arthur Biggins

Instructions

Complete all questions on this application and then sign it. Do not leave any blanks. If the answer to a question is "0," "none," or "not applicable (N/A)," write in that response. If you need more space to answer a question or to explain your answer, attach a separate piece of paper identified with your name, your case's docket number, and the question number.

Date: _____

My Issues on Appeal are: District Court Abused Its Discretion:

- (a) Ruling ON Injunction, and
- (b) Premature Dismissal Of Action

1.

For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

INCOME SOURCE	AVERAGE MONTHLY AMOUNT DURING THE PAST 12 MONTHS	AMOUNT EXPECTED NEXT MONTH
	You	You
Employment	\$ <u>Ø</u>	\$ <u>Ø</u>
Self-Employment	\$ <u>Ø</u>	\$ <u>Ø</u>
Income from real property (such as rental income)	\$ <u>Ø</u>	\$ <u>Ø</u>
Interest and Dividends	\$ <u>Ø</u>	\$ <u>Ø</u>
Gifts	\$ <u>Ø</u>	\$ <u>Ø</u>
Alimony	\$ <u>Ø</u>	\$ <u>Ø</u>
Child Support	\$ <u>Ø</u>	\$ <u>Ø</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>Ø</u>	\$ <u>Ø</u>
Unemployment payments	\$ <u>Ø</u>	\$ <u>Ø</u>
Disability (such as social security, insurance payments)	\$ <u>Ø</u>	\$ <u>Ø</u>
Public Assistance (such as welfare)	\$ <u>Ø</u>	\$ <u>Ø</u>
Other (specify): _____	\$ <u>Ø</u>	\$ <u>Ø</u>
Total monthly income	\$ <u>Ø</u>	\$ <u>Ø</u>

2. List your employment history, most recent employer first. (Gross monthly pay is before taxes or other deductions.

Employer	Address	Dates of Employment	Gross Monthly Pay
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A

3. List your spouse's employment history, most recent employer first. (Gross monthly pay is before taxes or other deductions.

Employer	Address	Dates of Employment	Gross Monthly Pay
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A

4. How much cash do you and your spouse have? \$ Ø

Below, state any money you or spouse have in bank accounts or in any other financial institution.

Financial Institution	Type of Account	Amount you have	Amount your spouse has
N/A	N/A	\$ Ø	\$ Ø
N/A	N/A	\$ Ø	\$ Ø
N/A	N/A	\$ Ø	\$ Ø

If you are a prisoner, you must attach a statement certified by the appropriate Institutional officer showing all receipts, expenditures, and balances during the last six months in your Institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement for each account.

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

Home (Value) <u>NONE</u> <hr/> <hr/>	Other real estate (Value) <u>Ø</u> <hr/> <hr/>	Motor Vehicle # 1 (Value) Make & year: <u>NONE</u> <hr/> Model: <u>NONE</u> <hr/> Registration #: <u>NONE</u> <hr/>
Motor Vehicle # 2 (Value) Make & year: <u>NONE</u> <hr/> Model: <u>NONE</u> <hr/> Registration #: <u>NONE</u> <hr/>	Other assets (Value) <u>Ø</u> <hr/> <hr/>	Other assets (Value) <u>Ø</u> <hr/> <hr/>

6. State every person, business or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money <u>NONE</u> <hr/> <hr/>	Amount owed to you <u>Ø</u> <hr/> <hr/>	Amount owed to your spouse <u>Ø</u> <hr/> <hr/>
--	--	--

7. State the persons who rely on you or your spouse for support.

Name	Relationship	Age
<u>N/A</u>	<u>daughter</u>	<u>N/A</u>
<u>N/A</u>	<u>daughter</u>	<u>N/A</u>
<u>N/A</u>	<u>son</u>	<u>N/A</u>

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Your Spouse
Rent or Home Mortgage (Include lot rented for mobile home)	\$ _____	\$ <u>N/A</u>
Are real estate taxes included?		
• yes • no		
Is property insurance included?		
• yes • no		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ <u>0</u>	\$ <u>N/A</u>
Home maintenance (repairs and upkeep)	\$ <u>0</u>	\$ <u>N/A</u>
Food	\$ <u>0</u>	\$ <u>N/A</u>
Clothing	\$ _____	\$ <u>N/A</u>
Laundry and dry-cleaning	\$ <u>0</u>	\$ <u>N/A</u>
Medical and dental expenses	\$ <u>0</u>	\$ <u>N/A</u>
Transportation (not including motor vehicle payments)	\$ <u>0</u>	\$ <u>N/A</u>
Recreation, entertainment, newspapers, magazines, etc.	\$ <u>0</u>	\$ <u>N/A</u>
Insurance (not deducted from wages or included in mortgage payments)	\$ <u>0</u>	\$ <u>N/A</u>
Homeowners or renters	\$ <u>0</u>	\$ <u>N/A</u>
Life	\$ <u>0</u>	\$ <u>N/A</u>
Health	\$ <u>890.00</u>	\$ <u>N/A</u>
Motor Vehicle	\$ <u>0</u>	\$ <u>N/A</u>
Other: _____	\$ <u>0</u>	\$ <u>N/A</u>
Taxes (not deducted from wages or included in mortgage payments)(specify): _____	\$ <u>0</u>	\$ <u>N/A</u>

	You	Your Spouse
Installment payments	\$ <u>Ø</u>	\$ <u>N/A</u>
Credit Card (name): _____	\$ <u>Ø</u>	\$ <u>N/A</u>
Department Store (name): _____	\$ <u>Ø</u>	\$ <u>N/A</u>
Other: <u>Medical Expenses</u>	\$ <u>40.00 monthly</u>	\$ <u>N/A</u>
Alimony, maintenance and support paid to others	\$ <u>Ø</u>	\$ <u>N/A</u>
Regular expenses for operation of business or farm (attach detailed statement)	\$ <u>Ø</u>	\$ <u>N/A</u>
Other (specify): _____	\$ _____	\$ <u>N/A</u>
Total monthly expenses:	\$ <u>40.00 monthly</u>	\$ <u>N/A</u>

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

• Yes

☒ No

If yes, describe on an attached sheet.

10. Have you paid NO Or will you be paying NO an attorney any money for services in connection with this case, including the completion of this form?

• Yes

• No

If yes, how much? \$ Ø

If yes state the attorney's name, address and telephone number:

NONE

11. Have you paid NO Or will you be paying NO anyone other than attorney (such as a paralegal or typist) any money for services in connection with this case, including the completion of this form?

• Yes • No If yes, how much? \$ _____

If yes state the person's name, address and telephone number:

NONE

12. Provide any other information that will help explain why you cannot pay the docket fees for your appeal.

Indigent (Incarcerated)

13. State the address of your legal residence.

Delaware Correctional Center
Smyrna, Delaware 19977

Your daytime telephone number: () NONE

Your age: 43 Your years of Schooling: 12

Your social security number: 263-85-9202

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. _____

**ADDENDUM TO AFFIDAVIT IN SUPPORT OF MOTION
TO PROCEED IN FORMA PAUPERIS**

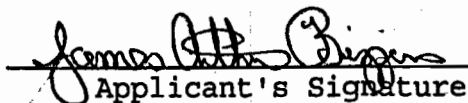
Notice to Litigant: The Prison Litigation Reform Act of 1995, effective April 26, 1996, has made significant changes to the in forma pauperis statute, 28 U.S.C. § 1915. The statute no longer provides for waiver of court filing or docketing fees for prisoners who are granted leave to proceed in forma pauperis. This applies to original proceedings and appeals from decisions in civil actions or proceedings. Once a prisoner has been granted leave to proceed in forma pauperis, the prisoner is obligated to pay the entire filing and/or docketing fee in the manner prescribed by statute, regardless of the outcome of the proceeding or appeal.

Prisoners proceeding in forma pauperis are now required to pay an initial partial filing fee, and thereafter periodic payments will be made from the prisoner's institutional account until the entire fee has been paid. 28 U.S.C. §1915 (b)(1). If a prisoner does not have sufficient funds to pay the initial partial fee, the prisoner will not be prohibited from proceeding. Once there are sufficient funds in the prisoner's account, however, funds will be collected in the manner prescribed by the statute until the entire fee has been paid. 28 U.S.C. §1915 (b)(4). The obligation to pay the fees and any subsequent costs continues even if the prisoner is transferred or released from custody.

Therefore, you should consider carefully whether you wish to go forward with an appeal or proceeding before you submit an affidavit in support of motion to proceed in forma pauperis to this Court.

The Act has amended § 1915 to require that you submit an affidavit in support of motion to proceed in forma pauperis that includes a statement listing all of your assets. 28 U.S.C. § 1915(a)(1). Therefore, when completing the attached affidavit, you must include a complete listing of your assets. You also must complete the following certification:

I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that I have the sum of \$ 8 in my prison account at (name of institution in which you are confined) _____.


Applicant's Signature

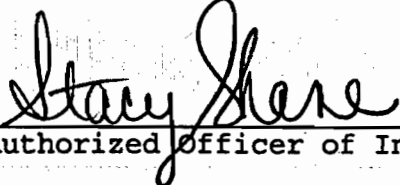
RECEIVED-DCC

APR 22 2008

SUPPORT SERVICES MANAGER

NOTICE TO PRISONER: You must submit to this Court a certified copy of your prison trust fund account statement (or institutional equivalent) for each institution in which you have been confined for the six-month period immediately preceding the date of this application. 28 U.S.C. §1915(a)(2). The following certification from an authorized officer of your institution(s) must accompany the account statement(s):

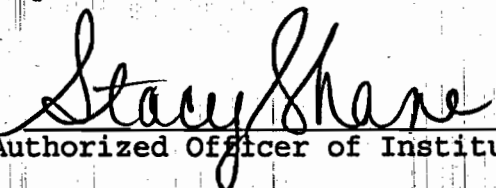
I certify that the attached trust fund account statement (or institutional equivalent) is true and correct.


Authorized Officer of Institution

NOTICE TO PRISON OFFICIALS: Pursuant to the Prison Litigation Reform Act, you will be obligated to forward payments to the appropriate United States District Court if the prisoner herein is granted leave to proceed in forma pauperis. 28 U.S.C. § 1915(b)(2) (April 26, 1996). Pursuant to that statute, once an initial partial fee is paid, the prison official in charge of the prisoner's account must forward monthly payments of 20% of the income credited to the prisoner's account during the preceding month, each time the amount in the account exceeds \$10, until the entire filing and/or docketing fee has been paid.

(Cut along the dotted line and forward to each institution in which applicant has been confined for the six-month period prior to the date this application is made.)

I certify that the attached trust fund account statement (or institutional equivalent) is true and correct.


Authorized Officer of Institution

NOTICE TO PRISON OFFICIALS: Pursuant to the Prison Litigation Reform Act, you will be obligated to forward payments to the appropriate United States District Court if the prisoner herein is granted leave to proceed in forma pauperis. Once an initial partial fee is paid, the prison official in charge of the prisoner's account must forward monthly payments of 20% of the

income credited to the prisoner's account during the preceding month, each time the amount in the account exceeds \$10, until the entire filing and/or docketing fee has been paid. 28 U.S.C. § 1915(b) (2) (April 26, 1996).

NOTICE TO PRISONER: You are directed to complete the following form. The top portion of the form must be returned to the Clerk. The lower portion of the completed form shall be returned to the prison official in charge of the prisoner account.

I, JAMES ARTHUR BIGGINS #319264
(Name of Prisoner and Registered Number if applicable)

authorize the Clerk of the Court to obtain, from the agency having custody over me, information about my institutional account, including balances, deposits, and withdrawals. The Clerk may obtain such information until the fee and any other payments owed the Court are paid. I also authorize the agency having custody over me to withdraw funds from my account and forward payments to the appropriate Clerk of Court in accordance with 28 U.S.C. §1915 (April 26, 1996).

James Arthur Biggins
Signature of Prisoner

April 22, 2008
Date

I, JAMES ARTHUR BIGGINS #319264
(Name of Prisoner and Registered Number if applicable)

authorize the Clerk of the Court to obtain, from the agency having custody over me, information about my institutional account, including balances, deposits, and withdrawals. The Clerk may obtain such information until the fee and any other payments owed the Court are paid. I also authorize the agency having custody over me to withdraw funds from my account and forward payments to the appropriate Clerk of Court in accordance with 28 U.S.C. §1915 (April 26, 1996).

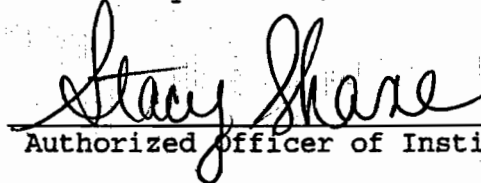
James H. [Signature]
Signature of Prisoner

April 23, 2008
Date

(Rev. 10/96)

NOTICE TO PRISONER: You must submit to this Court a certified copy of your prison trust fund account statement (or institutional equivalent) for each institution in which you have been confined for the six-month period immediately preceding the date of this application. 28 U.S.C. §1915(a)(2). The following certification from an authorized officer of your institution(s) must accompany the account statement(s):

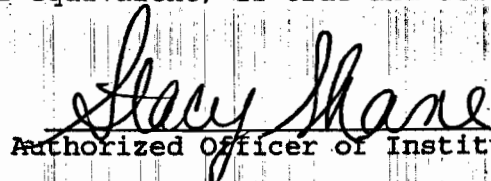
I certify that the attached trust fund account statement (or institutional equivalent) is true and correct.


Authorized Officer of Institution

NOTICE TO PRISON OFFICIALS: Pursuant to the Prison Litigation Reform Act, you will be obligated to forward payments to the appropriate United States District Court if the prisoner herein is granted leave to proceed in forma pauperis. 28 U.S.C. § 1915(b)(2) (April 26, 1996). Pursuant to that statute, once an initial partial fee is paid, the prison official in charge of the prisoner's account must forward monthly payments of 20% of the income credited to the prisoner's account during the preceding month, each time the amount in the account exceeds \$10, until the entire filing and/or docketing fee has been paid.

(Cut along the dotted line and forward to each institution in which applicant has been confined for the six-month period prior to the date this application is made.)

I certify that the attached trust fund account statement (or institutional equivalent) is true and correct.


Authorized Officer of Institution

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APR 22 2008

SUPPORT SERVICES MANAGER

DELAWARE CORRECTIONAL CENTER
SUPPORT SERVICES OFFICE
MEMORANDUM

TO: James Bygins SBI#: 319204
FROM: Stacy Shane, Support Services Secretary
RE: 6 Months Account Statement
DATE: April 23, 2008

Attached are copies of your inmate account statement for the months of
October 1, 2007 to March 31, 2008.

The following indicates the average daily balances.

<u>MONTH</u>	<u>AVERAGE DAILY BALANCE</u>
<u>Oct</u>	<u>14.81</u>
<u>Nov</u>	<u>14.03</u>
<u>Dec</u>	<u>27.98</u>
<u>Jan</u>	<u>13.90</u>
<u>Feb</u>	<u>26.00</u>
<u>March</u>	<u>9.56</u>

Average daily balances/6 months: 17.71

Attachments

CC: File

Stacy Shane
4/23/08

Carol Fournier
4/23/08

IM James Arthur Higgins
#319264 UNIT #7A-114
DELAWARE CORRECTIONAL CENTER
1181 PADDOCK ROAD
SMYRNA, DELAWARE 19977

RECEIVED
APR 28 2008
U.S. C.A. 3rd

Office of the Clerk
United States Court of Appeals
21400 United States Court House
681 Market Street
Philadelphia, Pennsylvania
19106

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X-RAY

UNITED STATES POSTAGE
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X-RAY

OFFICE OF THE CLERK

MARCIA M. WALDRON
CLERK

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT
21400 UNITED STATES COURTHOUSE
601 MARKET STREET
PHILADELPHIA 19106-1790
April 30, 2008

TELEPHONE
215-597-2995

Peter T. Dalleo, Clerk
United States District Court
J. Caleb Boggs Federal Building
Lockbox 18
844 King Street
Wilmington, DE 19801-3570

Re: Biggins v. Minner
D. Del. No. (08-cv-0004)

Dear Mr. Dalleo:

Pursuant to Rule 4(d), Federal Rules of Appellate Procedure, and Rule 3.4, Third Circuit Local Appellate Rules, we are forwarding the attached notice of appeal from the District Court order entered 4/16/08 which was filed with this office in error. See Rule 3(a)(1), Federal Rules of Appellate Procedure and Rule 3.4, Third Circuit Local Appellate Rules. **The notice was placed in prison mail on 4/25/08 and should be docketed as of that date.**

This document is being forwarded solely to protect the litigant's right to appeal as required by the Federal Rules of Appellate Procedure and Rule 3.4, Third Circuit Local Appellate Rules. Upon receipt of the document, kindly process it according to your Court's normal procedures. If your office has already received the same document, please disregard the enclosed copy to prevent duplication.

Pursuant to Rule 3(a)(1), Federal Rules of Appellate Procedure, a notice of appeal must be filed with the Clerk of the District Court. This Court may not act on an appeal until the notice has been docketed in the District Court and certified to this Court by the District Court Clerk.

Thank you for your assistance in this matter.

Very truly yours,

Marcia M. Waldron, Clerk

By: /s/ Chiquita Dyer
Legal Assistant

Enclosure
cc: James Biggins (w/out enclosure)